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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
) v.)
)
) EARL HARREL SIMS, II,)
)
) Defendant.)

No. 08-CR-0443 MMC

STIPULATION AND ORDER

KAP SUK SIMS,)
)
) Petitioner.)

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
) v.)
)
) APPROXIMATELY \$57,378 IN UNITED)
) STATES CURRENCY,)
)
) Defendant.)

No. 08-CV-5023 MMC

STIPULATION AND ORDER

KAP S. SIMS,)
)
) Claimant.)

1 The parties agree, subject to the Court's approval, that:

2 1. The parties have discussed proceeding with one of two options to resolve the factual
3 disputes in this case. One option the parties discussed is to have a hearing/trial before the Court at
4 which time the parties would each be able to call witnesses and submit evidence including
5 documentary evidence. The second option is for the parties to agree to submit this case based on
6 the factual record developed and filed in connection with the summary judgment motion. Although
7 the Federal Rules of Evidence apply, the parties agree that the Court can make credibility
8 determinations and weigh the evidence in the factual record. The parties agree to proceed with the
9 second option.

10 2. On or before September 16, 2011, the parties will submit any additional evidence in
11 support of their positions in the civil case and the criminal ancillary proceeding which has
12 previously not been submitted, and the United States will be permitted to file the corrected copy of
13 the tax return at that time.

14 3. On or before September 23, 2011, the parties may file brief objections based on the
15 Federal Rules of Evidence the factual record developed and filed. Also, the parties may choose to
16 file a trial brief on or before September 23, 2011. Claimant Kap Sims has requested that the parties
17 also be given one week to file a reply brief, but the undersigned Assistant United States Attorney
18 will be out of town from September 28 until October 5. Accordingly the parties request that they
19 be permitted to file an optional reply brief on or before October 11. Thereafter, the Court will take
20 Kap Suk Sims's claims in the civil case and in the criminal ancillary proceeding under consideration
21 without any additional hearing.

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4. Based on the foregoing, the case management conference previously scheduled for September 16, 2011 is taken off calendar.

IT IS SO STIPULATED:

MELINDA HAAG
United States Attorney

Dated: September 9, 2011

/s/
PATRICIA J. KENNEY
Assistant United States Attorney
Attorneys for the United States

Dated: September 8, 2011


/s/
KAP SUK SIMS
Petitioner/Claimant *pro se*

PURSUANT TO THE FOREGOING STIPULATION IT IS SO ORDERED, with the following exception and modification:

1. At plaintiff's request, set forth in plaintiff's Case Management Statement filed September 9, 2011, the Case Management Conference was held as initially scheduled.

2. Pursuant to the parties' further stipulation, entered orally at the Case Management Conference on September 16, 2011, **IT IS FURTHER ORDERED** that the deadline for objections and trial briefs is **EXTENDED** to September 30, 2011, and the deadline for reply briefs is **EXTENDED** to October 18, 2011.

Dated: September 16, 2011


HONORABLE MAXINE M. CHESNEY
United States District Judge

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